

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Sander *et al.*

U.S. Application No.: 09/701,933

International Application No.: PCT/US98/17769

Filing Date: 8/25/1998

Title: Cortical Bone Cervical Smith-Robinson Fusion
Implant

Attorney Docket No.: TB-104IA US

Group Art Unit:
5611

**RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN
THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

To: Assistant Commissioner for Patents
Washington, D.C. 20231

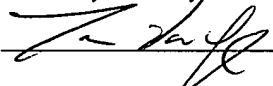
This is in response to a Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US). Enclosed is a copy of said Notification and the following documents and fees to complete the filing requirements of the above-identified application.

- (X) U.S. Basic National Fee of \$690.00 has already been paid. Please see the attached copy of fee transmittal as filed on December 1, 2000, a copy of the check and a copy of the return postcard with the USPTO "received" stamp.
- (X) One copy of the International Application in English.
- (X) International Preliminary Examination Report – not available, please see the attached communication.
- (X) One copy of the International Search Report and copies of the references cited therein.
- (X) Executed Declaration/Power of Attorney.
- (X) Surcharge for providing the declaration/power of attorney late in the amount of \$130.00.
- (X) Copies of Petitions for Extensions of Time (4th and 5th months) are enclosed and have been previously paid.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope with sufficient postage addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Date of Deposit: 8/16/2001

Typed Name: Timothy H. Van Dyke

Signature: 

Respectfully submitted,

By 

Timothy H. Van Dyke, Reg. No. 43218

Date: 8/16/2001

Telephone No.: 407-228-0328

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COMMUNICATION REGARDING NON-AVAILABILITY OF
INTERNATIONAL PRELIMINARY EXAMINATION REPORT

RECEIVED

To: Assistant Commissioner for Patents
Washington, D.C. 20231

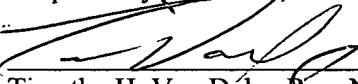
17 SEP 2001

Legal Staff
International Division

Pursuant to the enclosed Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US), the USPTO has requested a copy of the International Preliminary Examination Report (IPER) for international application no. PCT/US98/17769. We have not yet received the IPER for this case and according to the USPTO personnel at the PCT Help Desk no IPER has issued yet for this case. We respectfully inform the USPTO that the Examining Authority for this case is the USPTO and that the Patent Office is in a far better position than the applicant to obtain the IPER that the USPTO will generate. As such, Applicants assert they should not be required to submit the IPER. Nevertheless, should Applicants still be required to submit the IPER, they will do so as soon as it is received.

The undersigned asserts that although we are not providing a copy of the IPER with our response to the Notification, all of the requirements for the outstanding Notification are fulfilled.

Respectfully submitted,



Timothy H. Van Dyke, Reg. No. 43218

Date: 8/16/2001

Telephone No.: 407-228-0328

8/1/2001

Docket No: TB-104IA US
Serial No: 09/701,933
Applicants: Sander et al.
Filed: 8/25/1998

For Submission to the USPTO:

1. Petition and Fee for a Five-Month Extension of Time
2. Check in the amount of \$500.00.

RECEIVED
AUG 10 2001



09/701933
U.S. APPLICATION NO. 09/701,933
FIRST NAMED APPLICANT GROOMS
ATTY. DOCKET NO. J
INTERNATIONAL APPLICATION NO. PCT/US98/17769
I.A. FILING DATE 08/27/98
PRIORITY DATE 08/27/97
DATE MAILED: 02/16/01

Address: ASSISTANT COMMISSIONER FOR PATENTS
Box PCT
Washington, D.C. 20541
REC'D PCT/PTO 20 AUG 2001

BENDEN & VAN DYKE
1630 HILLCREST STREET
ORLANDO FL 32803

5611

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as

- ☐ a Designated Office (37 CFR 1.494),
☒ an Elected Office (37 CFR 1.495):

- ☒ U.S. Basic National Fee.
☒ Copy of the international application in:
☐ a non-English language.
☒ English.

- ☐ Translation of the international application into English.
☐ Oath or Declaration of inventors(s) for DO/EO/US.
☐ Copy of Article 19 amendments.
☐ Translation of Article 19 amendments into English.

- ☒ The International Preliminary Examination Report in English and its Annexes, if any.
☐ Translation of Annexes to the International Preliminary Examination Report into English.

- ☐ Preliminary amendment(s) filed _____ and _____
☐ Information Disclosure Statement(s) filed _____ and _____
☐ Assignment document.

- ☐ Power of Attorney and/or Change of Address.

- ☐ Substitute specification filed _____

- ☐ Statement Claiming Small Entity Status.

- ☐ Priority Document.

- ☒ Copy of the International Search Report ☒ and copies of the references cited therein.

- ☐ Other:

2. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- ☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.

- ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.

- ☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).

- ☒ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

- ☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.

- ☒ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

3. Additional claim fees of \$ _____ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☒ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

4. Translation of the Annexes **MUST** be submitted no later than the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.

5. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed: ☐ PCT/DO/EO/917
☐ PTO-875

☐ Notice of Defective Translation

FORM PCT/DO/EO/905 (December 1997)

Telephone (703) 703-205-3724

CTS
Date received 2/20/01
Docketed 2/21/01 By MK
Timely response due 2/31/01
Last date to file response

Please forward copy.

National Stage Processing
Patent Specialist